

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
AMENDED INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Section 353
Re: Methods Authorized for Taking Big Game
Title 14, California Code of Regulations (CCR)

I. Date of Initial Statement of Reasons: December 27, 2006

II. **Date of Amended Initial Statement of Reasons: February 15, 2007**

III. Dates and Locations of Scheduled Hearings:

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| (a) | Notice Hearing: | Date: February 2, 2007
Location: Monterey |
| (b) | Discussion Hearing: | Date: March 2, 2007
Location: Arcata |
| (c) | Discussion Hearing: | Date: April 13, 2007
Location: Bodega Bay |
| (d) | Adoption Hearing: | Date: April 25, 2007
Location: Teleconference |

IV. Description of Regulatory Action: Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

1. Require that non-lead bullets be used for the take of big game in the geographic area inhabited by the California condor. This area is identified in existing regulation by the boundaries established as deer hunt zones as the South Unit A Deer zone, and all of deer zones D9, D10, D11, and D13.

The existing regulations provide for methods to be used to take big game. Traditionally, bullets made of lead have been used for hunting big game throughout the State. Big game hunting may result in hunter-killed deer, elk, wild pig, pronghorn antelope, or black bear being un-recovered (lost)

by the hunter; it can also result in these animals being killed and “field-dressed” with lead bullet fragments remaining in the disposed of portions (e.g., internal organs) being left in the field. Scavengers typically feed on these remains. The condor is a scavenging species that feeds on carcasses of dead animals, primarily large mammals such as deer, elk, wild pig, marine mammals, and livestock.

There has been known concern regarding potential risk of lead-based ammunition to the California condor for several years, with the Department recommending that hunters voluntarily use non-lead bullet alternatives in condor range. Additionally, recent studies indicate that considerable fragmentation of lead bullets in the body occurs when large mammals are killed; and that examination of lead exposure and mortality in condors indicated that lead isotope ratios detected in blood samples from California condors closely matched lead isotope ratios from local, available lead ammunition. **These results provide scientific inference that lead from hunters may contribute to condor mortality.**

The proposed regulation change will enable the Department and the Commission to take an action within their purview to reduce the risk of indirect lead poisoning to the California condor by big game hunting activities.

Contingent on funding availability, the Department proposes developing and implementing an incentive program to offset the higher cost of non-lead bullets for big game hunters in these areas.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202 and 203, Fish and Game Code.

Reference: Sections 200, 202, 203, 203.1, 207, 2005, and 3950, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

Requires hunters in specified areas of the State to use non-lead containing bullets, muzzleloader balls, and/or shotgun slugs for the taking of big game.

- (d) Identification of Reports or Documents Supporting Regulation Change:

2007 Draft Environmental Document to be titled: “Method of Take for Big Game and Nongame Birds and Nongame Mammals in California Condor

Range”.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

The Department held one public scoping meeting (October 11, 2006) regarding environmental concerns related to the mammal hunting regulations. The topic of lead ammunition in condor range was the dominant issue brought up at the meeting. On December 7, 2006, the Department provided the Fish and Game Commission information on the status of the coming regulation cycle and identified the proposed regulation change as one alternative that was being prepared for consideration.

V. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

1. Proposed Action extended to historic California condor range.

This alternative implements the proposed action, except that it increases the geographic area up into the Southern Sierra Nevada to include what is considered historic California condor range and would include the areas described in regulation as deer hunt zones D7 and D8.

2. Require non-lead bullets be used for the take of big game statewide.

This alternative would apply the proposed action on a statewide basis rather than only on the basis of geographic area inhabited by the California condor.

(b) No Change Alternative:

The no change alternative would result in continued risk of indirect lead poisoning from legal big game hunting activities to the California condor. Voluntary incentive program to provide non-lead ammunition for big game hunting, and recommendations to all hunters to use non-lead ammunition in condor range would continue.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected persons than the proposed regulation.

1. Proposed Action extended to historic California condor range.

This alternative would include areas described in regulation as deer hunt zones D7 and D8. Based on information available to the Department, the condor does not currently inhabit these areas. This alternative would significantly increase the number of hunters having to switch to non-lead ammunition in areas where the condor does not exist. It would be difficult to identify an enforceable boundary of the traditional California condor range. The Department would not likely be able to afford an incentive program if these zones were included in a non-lead bullet regulation.

2. Require that non-lead bullets be used for the take of big game statewide.

This alternative would include the entire State of California. Based on information available to the Department, the condor does not currently inhabit these areas and the basis of the regulation change proposal is to reduce risk to the condor. This alternative would significantly increase the number of hunters having to switch to non-lead ammunition in areas where the condor does not exist. The Department would not be able to afford an incentive program if the entire state were included in a non-lead bullet regulation.

VI. Mitigation Measures required by the Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

These alternatives and the proposed action are further described in the 2007 Draft Environmental Document for this section of the regulations.

VII. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action have been assessed, and the following initial determinations to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Based on information currently available, the Department does not believe that requiring the use of non-lead ammunition for the hunting of big game in California condor range will cause any significant

changes to hunting programs administered by the Department or to the public, as evidenced by the change to non-lead shot for waterfowl hunting in California several years ago.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Ammunition retailers not offering non-lead ammunition options will likely experience a reduction in sales and revenue. Those can be mitigated by including non-lead ammunition in their sales inventory. Additionally, the demand for non-lead ammunition alternatives for a variety of purposes (enforcement, security, target practice) in addition to hunting is increasing. Increased demand will likely result in the creation of new businesses or the expansion of existing businesses in California.

- (c) Cost Impacts on a Representative Private Person or Business:

Department research indicates that although the number of manufacturer's currently producing non-lead ammunition is limited and the price of non-lead ammunition is slightly higher in cost than lead ammunition, neither of these factors will result in significant adverse economic impact to California's big-game hunters.

The difference in price for a box (20 rounds) of non-lead ammunition compared to lead ammunition varies depending on caliber and ranged from \$5.00 (22%) for .243 caliber to \$1.00 (2%) for 7mm caliber. Differences in bullets for reloading (50/box) ranged from \$11.04 (65%) for .224 caliber to \$8.60 (37%) for .270 caliber.

Although production capacity is currently limited, a variety of ammunition retailers do offer non-lead ammunition in most calibers used in big-game hunting. Prices for non-lead ammunition (up to 22%) and bullets (up to 65%) are higher; however, when viewed as part of the total cost of a hunting trip (license, tags, food, lodging, fuel, carcass processing, taxidermy, etc.) the increased amount (up to \$5.00 for a box of ammunition and up to \$11.69 for a box of bullets) is insignificant.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None

(f) Programs mandated on Local Agencies or School Districts:

None

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None

(h) Effect on Housing Costs:

None

Updated Informative Digest/Policy Statement Overview

The existing regulations provide for methods to be used to take big game. Traditionally, bullets containing lead have been used for taking big game. The regulation change proposed here would require non-lead bullets, muzzleloader balls, and/or shotgun slugs for the taking of big game mammals in the geographic area inhabited by free-ranging California condors. This area is identified in existing regulation by the boundaries established as deer hunt zones as the South Unit A Deer zone, and all of deer zones D9, D10, D11, and D13.

Alternatives to the proposed action are “no change” to existing regulation, requiring non-lead bullets statewide, **and extending the Proposed Action to historic California condor range (this alternative implements the proposed action, except that it increases the geographic area up into the Southern Sierra Nevada to include what is considered historic California condor range and would include the areas described in regulation as deer hunt zones D7 and D8).**

In the past two decades, State, federal, and non-profit organizations have diligently worked to save and reintroduce the endangered California condor into the wilds of its former range. These conservation efforts, including substantial research investigations, have resulted in the determination that lead toxicity/lead poisoning is a factor affecting condor health and survival. The Department mission is to conserve California’s wildlife for use and enjoyment by the citizens of the State. Reducing the potential risk to the condor of lead poisoning through big game hunting activities is the intent of this regulation change.

The proposal requires hunters in the specified area of the state inhabited by free-ranging California condor to use non-lead containing bullets, muzzleloader balls, and/or shotgun slugs for the taking of big game.